

ORDINANCE NO. 2004-46

KENSINGTON COMBINING DISTRICT

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends the County Ordinance Code to add the Kensington Combining District, which adds land use regulations within any area added to the District. (Ord. 2004-46 § 1.)

SECTION II. Chapter 84-74 is added to the County Ordinance Code to read:

Chapter 84-74
KENSINGTON COMBINING DISTRICT

Article 84-74.2
General

84-74.202 Kensington (-K) combining district. All land within a land use district combined with the Kensington combining (-K) district shall be subject to the following additional regulations set forth in this chapter. (Ord. 2004-46, § 2.)

84-74.204 Purpose and intent.

- (a) The purpose of this chapter is to provide specific regulation to fairly and efficiently implement the Contra Costa County General Plan Policies for the Kensington Area so that future development recognizes the rights of property owners to improve the value and enjoyment of their property while minimizing impacts upon surrounding neighbors and not substantially impairing the value and enjoyment of their neighbors' property; maintains the community's property values; and promotes the general welfare, public health and safety.
- (b) It is a further purpose of this chapter to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels, and compatibility with the neighborhood with regard to bulk and scale.
- (c) Features of a development that could influence these values include but are not limited to siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting, and location of mechanical devices such as motors, fans and vents. (Ord. 2004-46, § 2.)

84-74.206 Priority. Where there is any conflict between the regulations of this chapter and those of the underlying zoning district, the requirements of this chapter shall govern. Otherwise, the regulations found in Division 82 and Chapter 84-4 shall apply to the Kensington Combining District. (Ord. 2004-46, § 2.)

Article 84-74.4 Definitions

84-74.402 General. Unless specified in this article, the terms used in this chapter are defined as in other chapters of this title. (Ord. 2004-46, § 2.)

84-74.404 Definitions. For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Attic” means the space between the ceiling of the top story or top half-story, and the roof, of a building.
- (b) “Basement” means any area in a building or structure where the finished floor directly above the area is less than four feet above preconstruction grade or finished grade, whichever is lower.
- (c) “Bulk” means the volume of the building or structure, including interior courtyard, if any, with height of said courtyard measured to the top plate of the adjoining top story.
- (d) “Crawl space” means an area at, just above, or just below grade and enclosed within the building or structure, which is unconditioned, unfinished and not habitable as a result of insufficient ceiling height to meet applicable building code standards.
- (e) “Design” means the physical characteristics of the building or structure, such as bulk, fenestration, hipped roof, and eaves.
- (f) “Development,” for the purposes of this chapter, means any building or structure that requires a building permit, unless exempted under section 84-74.604.
- (g) “Envelope” means a building’s or structure’s three dimensional solid figure as defined by the exterior faces of the enclosing walls and roofs and including vertical extensions to the ceiling of the top story of eaves, balconies, decks, fenestration, and interior courtyards.
- (h) “Gross floor area” means the total horizontal area in square feet of each floor inclusive of the exterior walls of all buildings on a parcel, as measured at the exterior face of the enclosing wall. Gross floor area includes attached and detached primary and accessory buildings, interior courtyards, garages, and carports with roof covering. Gross floor area

does not include the area in attics, crawl spaces, basements, and uncovered balconies, decks, and patios.

- (i) “Interior courtyard” means an unroofed area contained within a building that is bounded on at least three sides by roofed interior space, provided the two opposing walls are each at least 10 feet in depth.
- (j) “Light” means a living area’s access to open sky unobstructed by buildings or structures.
- (k) “Living areas” mean rooms in the residential buildings on a parcel that have at least one exterior window or door. Living areas do not include attics, crawl spaces, basements, accessory buildings, garages, and carports.
- (l) “Neighborhood” and “neighboring” mean real properties within 300 feet of the subject property. “Surrounding neighbors” and “neighbors” mean owners of real properties within 300 feet of the subject property.
- (m) “Obstruction” means any substantial blockage or diminution by the proposed development on surrounding neighbors’ light, solar access, view, or pre-existing solar energy systems. An obstruction may be caused by a building, a structure, or by attached appendages, such as fire escapes, open stairways, chimneys, sills, belt-courses, cornices, eaves, trellises, or other nonvegetative ornamental features.
- (n) “Parcel area” means the total horizontal area included within the property lines of a parcel.
- (o) “Scale” means the relative size of a building as compared to other buildings in the neighborhood.
- (p) “Siting” means the location of the envelope of a building or structure on a parcel.
- (q) “Solar access” means a living area’s direct sunlight unobstructed by buildings or structures.
- (r) “View” means a scene from a window in habitable space of a neighboring residence. The term “view” includes both up-slope and down-slope scenes, but is distant or panoramic range in nature, as opposed to short range. Views include but are not limited to scenes of skylines, bridges, distant cities, distinctive geologic features, hillside terrain, wooded canyons, ridges, and bodies of water. (Ord. 2004-46, § 2.)

Article 84-74.6
Exemptions

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84-74.602 General. All land within a land use district combined with the -K District is exempt from the provisions of Section 82-10.002 (c), Small Lot Occupancy. (Ord. 2004-46, § 2.)

84-74.604 Exemptions. The following developments are exempt from the requirements of this chapter:

- (a) Commercial buildings, churches, public buildings, schools, or residential second units that meet all applicable code requirements.
- (b) One story accessory buildings with an area of less than 120 square feet sited within the applicable setbacks.
- (c) Repair or replacement of legally constructed residences destroyed or damaged by fire, explosion, act of God or the public enemy, or other accident or catastrophe, if both of the following conditions are satisfied:
 - (1) The siting and envelope are the same; and
 - (2) The application for repair or replacement is submitted within two years of the destruction.
- (d) Developments within the -K District for which application was accepted as complete before the effective date of this chapter.
- (e) Development within an existing building or structure that does not expand its envelope. (Ord. 2004-46, § 2.)

Article 84-74.8 Hearing Requirement

84-74.802 Threshold standard triggering hearing requirement.

- (a) If the proposed development results in a gross floor area that exceeds the threshold standard set forth in this section, a hearing is required in accordance with section 84-74.1006.
- (b) The threshold standard is the product of the values of PA and X, increased to the next highest 100 unless the product of PA and X is evenly divisible by 100.
- (c) In calculating the threshold standard, the value of PA is the parcel area in square feet. The value of X is determined by one of the following formulas:

- (1) For parcels with an area of fewer than 5,000 square feet, X equals 0.500.
- (2) For parcels with an area of 5,000 square feet or more but fewer than 7,000 square feet, X is calculated by subtracting the product of 0.00005 and PA from 0.750 [X= 0.750 - 0.00005(PA)].
- (3) For parcels with an area of 7,000 square feet or more but fewer than 10,000 square feet, X is calculated by subtracting the product of 0.00002 and PA from 0.540 [X= 0.540 - .00002(PA)].
- (4) For parcels with an area of 10,000 square feet or more but fewer than 20,000 square feet, X is calculated by subtracting the product of 0.000013 and PA from 0.470 [X=0.470 - 0.000013(PA)].
- (5) For parcels with an area of 20,000 square feet or more, X equals 0.220. (Ord. 2004-46, § 2.)

Article 84-74.10
Review Procedure

84-74.1002 Administrative decision or hearing. Any application for a permit submitted to the community development department for a building permit for development or expansion of the envelope of a building or structure on a parcel within the –K District that is not exempt under article 84-74.6 is subject to the review procedure under this article. This article does not exempt an application from any applicable variance requirements of article 26-2.20. (Ord. 2004-46, § 2.)

84-74.1004 Notice. Notwithstanding the provisions of section 26-2.2104, before the zoning administrator decides any application pursuant to this article, the community development department shall mail or deliver notice of intent to decide the application, pursuant to Government Code Section 65091 and the notice provisions of section 26-2.2004 of the code. The notice shall state the last day to request a public hearing on the application (which shall be no fewer than 34 days after date of mailing), the general nature of the application (including any subdivision exception requested), the review process, and the street address, if any, of the property involved or its legal or boundary description if it has no street address. (Ord. 2004-46, § 2.)

84-74.1006 Determination of whether hearing is required.

- (a) A public hearing on an application is not required unless:
 - (1) The threshold standards in section 84-74.802 are exceeded; or

- (2) A written request for public hearing is filed with the community development department within 34 calendar days after the notice is mailed.
- (b) If a public hearing is required, the community development department will schedule a public hearing on the application in accordance with applicable provisions of chapter 26-2. (Ord. 2004-46, § 2.)

Article 84-74.12
Standards of Consideration

84-74.1202 Where no hearing is held. If a hearing is not required under the provisions of section 84-74.1006, the application shall be approved. (Ord. 2004-46, § 2.)

84-74.1204 Where a hearing is held. If a hearing is held pursuant to the provisions of section 84-74.1006, the zoning administrator shall consider the application in accordance with the provisions of this article. (Ord. 2004-46, § 2.)

84-74.1206 Standards of consideration at hearing.

- (a) To ensure the development will promote the values articulated in section 84-74.204 and promote the general welfare, public health and safety of the community, the zoning administrator shall evaluate siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting, and location of mechanical devices, such as motors, fans and vents. These features of the development shall be evaluated on the basis of their impacts on the neighboring properties, with regard to view protection, obstructions, privacy in living areas, parking, light and solar access, maintaining residential noise levels, and compatibility with the neighborhood with regard to bulk and scale.
- (b) In reaching a decision, the zoning administrator shall apply a standard that balances the following factors: (1) recognizing the rights of property owners to improve the value and enjoyment of their property; (2) recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale and design; (3) minimizing impacts upon surrounding neighbors; (4) protecting the value and enjoyment of the neighbors' property; (5) maintaining the community's property values; (6) maximizing the use of existing interior space; and (7) promoting the general welfare, public health, and safety. Balancing of these factors will not result in the prohibition of development that is compatible with the neighborhood with regard to bulk and scale on parcels that have not been developed.
- (c) To assess solar access impacts, when appropriate, the community development director may require the applicant to provide sun shadow analyses showing the impact of the

proposed development on neighboring properties. The review process shall evaluate the impacts in accordance with the purpose and intent of this ordinance as set forth in section 84-74.204(a). The zoning administrator may condition approval of the development by requiring mitigation through design and siting. (Ord. 2004-46, § 2.)

84-74.1208 Approval. If the zoning administrator finds that the criteria stated in section 84-74.1206 and other applicable requirements are satisfied, the zoning administrator may approve the development plan. (Ord. 2004-46, § 2.)

84-74.1210 Appeal. Any interested party may appeal a decision made by the zoning administrator under this chapter in accordance with the provisions of article 26-2.24. (Ord. 2004-46, § 2.)

SECTION III. Section 82-4.290 is added to the County Ordinance Code, to read:

82-4.290 Basement. “Basement” means any area in a building or structure where the finished floor directly above the area is less than six feet above preconstruction grade or finished grade, whichever is lower. (Ord. 2004-46, § 3.)

SECTION IV. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days of passage shall be published once with the names of the supervisors voting for and against it in the Contra Costa Times, a newspaper published in this County.

PASSED ON _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST: John Sweeten,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By _____
Deputy

[SEAL]

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